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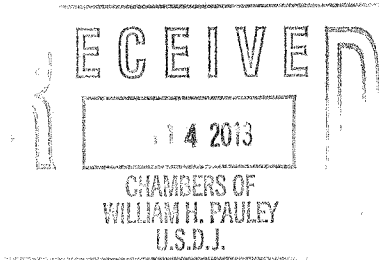
Mark R. Rosen  
mrosen@barrack.com

August 13, 2013

**MEMO ENDORSED**

**Via Overnight Delivery**

Honorable William H. Pauley, III  
United States District Judge  
for the Southern District of New York  
500 Pearl Street  
New York, NY 10007



**Re: Pennsylvania Public School Employees' Retirement System v.  
Bank of America Corp., et al., Civil Action No. 1:11-cv-00733 WHP**

Dear Judge Pauley:

This is to follow up on the telephone conference that the Court conducted on July 26, 2013 and the ensuing July 31, 2013 Order concerning the class certification process. As Your Honor will recall, during the July 26th conference the Court informed the parties that it had at least two priorities concerning class certification. First, the motion and accompanying briefing and submission of supporting materials would be expedited so that instead of completing the briefing process at the end of February, 2014, all briefing on the motion would be completed by January 10, 2014, to be followed by a class certification hearing on January 31, 2014. In this regard, Your Honor directed that plaintiff file its motion and substantive opening papers by November 15, 2013; defendants file their responding papers by December 20, 2013; and plaintiff file its reply papers by January 10, 2014. Second, the Court instructed the parties to meet and confer prior to the submission of a status report on the class certification process on October 31, 2013, and directed the parties to explore, seriously and in good faith, the possibility of stipulating to or narrowing any issues that could be presented in the class papers.

Following the Conference and Order, plaintiff wrote to defendants by letter dated August 1, 2013 (attached as Exhibit A) seeking their agreement on a proposal to effectuate the Court's goals for the class certification process. Plaintiff proposed that the parties agree to the following:

1. Plaintiff will serve its opening expert declaration(s) on defendants no later than September 10, 2013 (more than two months before the Court-ordered opening brief deadline).

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3300 TWO COMMERCE SQUARE | 2001 Market Street | Philadelphia, PA 19103

215.963.0600 F 215.963.0838 www.barrack.com





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2. Defendants will serve their expert declaration(s) on plaintiff no later than October 10, 2013.

3. The parties will meet and confer no later than October 18, 2013, when each side will present the basis for its support or opposition to class certification, thereby permitting the parties to have an informed discussion concerning class certification issues that could be narrowed or eliminated.

4. The parties will submit a detailed report concerning the meet and confer process to the Court by the October 31, 2013 deadline.

5. The parties will file and serve their class papers on the deadlines established by the Court: plaintiff's opening papers, including any rebuttal expert declaration(s) on November 15, 2013; defendants' responsive papers on December 20, 2013; and plaintiff's reply papers on January 10, 2014.

6. In order to avoid unnecessary delays in analyzing each side's expert declarations, at the time the parties serve upon their adversaries each wave of expert declarations, they shall also deliver to their adversaries, by overnight delivery, all programs, data and exhibits used in each expert declaration.

The key to plaintiff's proposal was that the parties exchange their opening and opposition expert declarations *before* conducting the October meet and confer session to explore eliminating or narrowing issues presented by the class certification process. Making these expert disclosures in advance of the meet and confer session would, in our view, ensure that the parties' discussions would be informed by a detailed exposition of each side's position on the merits of class certification.

Defendants responded on August 8, 2013 by email from Scott D. Musoff, Esquire on behalf of all defendants (attached as Exhibit B), in which, while agreeing with plaintiff's proposal "on the general time frame for the meet-and-confer process," they rejected the suggestion that the parties exchange expert declarations in advance of the meet and confer session, stating "[w]e cannot commit to providing an expert declaration within 30 days," even though the current schedule requires plaintiff to submit its reply memorandum and expert declaration(s) just 21 days after defendants' opposition papers are served.

Plaintiff remains committed to honoring the letter and spirit of the Court's instructions set forth in the July 26 Conference and July 31 Order, and respectfully submits that Your Honor's resolution of this disagreement would facilitate the parties' submission of focused class



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certification papers. Of course, plaintiff stands ready to participate in a telephone or in person conference at the Court's convenience, if desired.

Respectfully,

A handwritten signature in black ink, appearing to read 'Mark R. Rosen'.

Mark R. Rosen

MRR:rpb  
Enclosures

cc: All Defense Counsel (via overnight delivery)

*The parties are directed to exchange  
expert reports by October 18, 2013.*

SO ORDERED:

A handwritten signature in black ink, appearing to read 'William H. Pauley III'.  
8/19/13  
WILLIAM H. PAULEY III U.S.D.J.